

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

MELVIN VANOVER,

Petitioner,

v.

CASE NO. 2:09-CV-208

GARY CAPELLO,

HON. ROBERT HOLMES BELL

Respondent.

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**ORDER ADOPTING REPORT AND RECOMMENDATION**

This matter is before the Court on Petitioner Melvin Vanover's petition pursuant to 28 U.S.C. § 2254. On June 25, 2010, Magistrate Judge Timothy P. Greeley issued a report and recommendation (R&R) recommending that this petition be dismissed without prejudice under *Rose v. Lundy*, 455 U.S. 509 (1982), as a mixed petition presenting both exhausted and unexhausted claims. No objections have been filed. The Court has reviewed the R&R, and has determined that its findings and conclusions are sound. Accordingly,

**IT IS HEREBY ORDERED** that the R&R (Dkt. No. 18) is **APPROVED** and **ADOPTED** as the opinion of the Court.

**IT IS FURTHER ORDERED** that Petitioner's petition under 28 U.S.C. § 2254 is **DISMISSED WITHOUT PREJUDICE**.

**IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**.

Dated: July 22, 2010

/s/ Robert Holmes Bell  
ROBERT HOLMES BELL  
UNITED STATES DISTRICT JUDGE